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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,289	09/06/2000	Nouri E. Hakim	4009.016	9451

7590

06/13/2002

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EXAMINER

MAI, TRI M

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 06/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/656,289	Applicant(s) HAKIM, NOURI E.	
	Examiner Tri M. Mai	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 51-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 51-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

### DETAILED ACTION

1. Claims 17-50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in Paper No. 8.

2. It is noted that the responding amendment A dated 04/04/02 indicates that claims 6 and 15 to be amended. However, there it appears that claims 6 and 15 have not been amended.

#### *Priority*

3. Applicant's claim for priority of applications French Design Patent No. 976, 785, U.S. Design Patent 29/119,049 and US Design Patent 29/088, 360 is acknowledged. However, the applications upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 1-15, 51 and 52 of this application. *Inter alia*, these applications fail to disclose a hole at the top of the nipple cover and the cover member.

#### *Claim Rejections - 35 USC § 102*

4. Claims 1-16, and 53 are rejected under 35 U.S.C. 102(a) as being anticipated by Shefflin (5,878,898). Shefflin teaches a cover for a nipple having a sealing element 72.

Regarding claim 6, Shefflin teaches a flange in the embodiments of Figs. 2A, and 13.

Regarding claim 10, in the very least, the cap in fig. 16 has a different color than the cover (note the cartoon figure).

Regarding claim 4, note the dome-like bottom surface in Fig. 13.

Regarding claim 6, portion 45 is the flange as set forth.

Regarding claim 14, note the upper surface is flush with portion 18 in Fig. 17.

Regarding claim 15, note the compressed nipple as shown in Figs. 10, 12 and 13.

It is noted that Shefflin has priority filing dated Oct 14, 1992.

5. Claims 1-16, and 53 are rejected under 35 U.S.C. 102(e) as being anticipated by Held (5150801). Shefflin teaches a cover for a nipple having a sealing element as shown in Fig. 12 and 13.

***Claim Rejections - 35 USC § 103***

6. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Signorini in view of Shefflin. Signorini teaches a baby body, a nipple and a cover, a cap with recesses to accommodate the threads of the handle as shown in Fig. 5A -7. Signorini meets all claimed limitations except for the top with an orifice on the top. Shefflin teaches that it is known in the art to provide a top with an orifice on the top. It would have been obvious to one of ordinary skill in the art to provide a top with an orifice on the top in Signorini as taught by Shefflin to prevent leaking and/or to access the nipple easily.

7. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yagi in view of either Shefflin or Held (5150801). Yagi meets all claimed limitations except for the sealing element on the top. Either Shefflin or Held teaches that it is known in the art to provide a sealing element on a top of a baby bottle. It would have been obvious to one of ordinary skill in the art to provide a top having a sealing element in Yagi as taught by either Shefflin or Held to provide added protection.

***Response to Arguments***

8. Applicant's arguments filed on 4/4/02 along with the Declaration of Nouri E. Hakim have been fully considered but they are not persuasive. As set forth above, the claims directed to the

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cover do not read over the covers of either Shefflin or Held. Shefflin has priority dated back Oct. 14, 1992.

*Conclusion*

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

  
LEEYOUNG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

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Tri M. Mai

Examiner

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T. Mai

June 4, 2002